

**Tax Type:** Property Tax  
**Issue:** Charitable Ownership/Use

**EVANSTON NORTHWESTERN  
HEALTHCARE CORPORATION,  
APPLICANT**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 00-PT-0015**  
**(98-16-1261)**  
**05-35-322-003**

**APPEARANCES:** Messrs. Thomas J. McCarthy and Dennis Santoni of McCarthy and Associates on behalf of the Evanston Northwestern Healthcare Corporation (hereinafter the “applicant”).

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (hereinafter the “Board”) on April 23, 1999. The Board reviewed the

application and recommended to the Illinois Department of Revenue (hereinafter the "Department") that the subject property be exempt as of February 4, 1998. (Dept. Ex. No. 2). The Department then issued its determination in this matter on January 27, 2000, finding the subject property is not in exempt use.

Applicant filed a timely appeal to this determination and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, I recommend that the Department's determination be modified to reflect that the subject property be exempt for 91% of the 1998 assessment year.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter, and its position therein, are established by the admission of Dept Ex. Nos. 1, 2, 4.
2. The Department's position in this matter is that the subject property is not in exempt use. Dept. Ex. No. 4.
3. The subject property is located at 1017 Central Street and situated on the main campus of Evanston Hospital, a large health care facility sited on real estate identified by Cook County Parcel Index Numbers 05-35-233-001 and 05-35-322-002. Dept. Ex. Nos. 1,2, 3; Applicant Ex. Nos. 8, 14, 15.
4. Applicant obtained real estate tax exemptions for Cook County Parcel Index Numbers 05-35-233-001 and 05-35-322-002 pursuant to the Department's determinations in Docket Nos. 85-16-36 and 85-16-37.<sup>1</sup> These exemptions remained in full force and effect throughout the 1998 assessment year. Dept. Ex. No. 2; Administrative Notice.

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1. I am unable to present any further information about these exemptions because the Departmental records pertaining thereto have been destroyed due to age.

5. Applicant acquired the subject property as part of a major improvement campaign for its Evanston Hospital campus. It commenced this campaign, which included construction of a new parking garage and movement of patient care areas, in early 1998. Tr. pp. 17, 46.
6. Applicant obtained ownership of the subject property, which is improved with a one story building and an adjacent parking area, by means of a trustee's deed dated February 4, 1998. Dept. Ex. No. 1; Applicant Ex. No. 4.
7. The building improvement was being used as a commercial dry cleaning facility prior to the date of purchase. Applicant ceased the operations of this dry cleaner, and began renovating the interior of the building for office space, immediately upon assuming ownership. Tr. pp. 95-96.
8. Applicant continued making renovations to the interior until June of 1998, when it began using the building as office space for the project management team that was responsible for overseeing its campus renovations project. Tr. pp. 95-96, 101-106.
9. Applicant continued using the building as office space for its project management team throughout the remainder of 1998. Tr. pp. 101-106.
10. Applicant used the adjacent parking area as a parking facility for its on-site project management team from the date it acquired ownership of the subject property through the remainder of the 1998 assessment year. It did not charge anyone for using this parking facility, or derive any rental income therefrom, during that time. Tr. p. 104.

## **CONCLUSIONS OF LAW:**

An examination of the record establishes that this applicant has demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant modification of the Department's initial determination herein. Accordingly, under the reasoning given below, said determination should be modified to reflect that the subject property be exempt from 1998 real estate taxes under Sections 15-65 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*, but only for 91% of the 1998 assessment year. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code 35 **ILCS** 200/1-1 *et seq.* The provisions of the Code that govern disposition of this case are found in Sections 15-65(a) and 15-125, the former of which provides that:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity

35 **ILCS** 200/15-65(a).

Section 200/15-125 provides that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt.

35 ILCS 200/15-125.

Sections 15-65(a) and 15-125, like all statutes exempting property from taxation, are to be strictly construed against exemption. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). For this reason, all doubtful factual questions and other debatable matters must be resolved in favor of taxation. *Id.* Therefore, applicant, which bears the burden of proof in all exemption matters, must satisfy a standard of clear and convincing evidence in order to prove that the relevant statutory exemption applies. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Here, the relevant statutory exemptions pertain to "institutions of public charity" and parking areas. The statutory requirements for exemption under both provisions are: (1) exempt ownership; and, (2) exempt use. 35 ILCS 200/15-65(a), 125; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968); Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986). Only the latter requirement is truly at issue herein, as the instant denial was predicated solely on lack of exempt use. However, it bears noting that applicant did not own the subject property throughout the entire 1998 assessment year. Therefore, any conclusions that I reach concerning the exempt status of that property are subject to the pro-rata provisions contained in Section 9-185 of the Property Tax Code.

Section 9-185 states, in pertinent part, that:

... when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Code, that property shall be exempt from the date of the right of possession, except that property acquired by condemnation is exempt as of the date the condemnation petition is filed.

35 ILCS 200/9-185.

The trustee's deed (Applicant Ex. No. 4) proves that applicant obtained its "right of possession" on February 4, 1998. Therefore, Section 9-185 mandates that any exemptions granted herein be limited to the 91% of the 1998 assessment year which transpired on or after that date.

This conclusion necessitates that the true source of controversy herein is whether the subject property was used for exempt purposes during the period identified above. Exemptions have been sustained where applicant proves that its use of the property in question is "reasonably necessary" to support other exempt uses or contribute to the efficient administration thereof. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985 (4<sup>th</sup> Dist. 1992). All of this applicant's post-acquisitional uses of the subject property centered around providing on-site office space and collateral parking facilities for the management team that was overseeing the extensive renovations that applicant was making to its tax-exempt hospital campus. These uses contributed to the efficient administration of such renovations by providing applicant with on-site access to whatever management resources it required to direct such an inherently complex project. Therefore, the Department's initial determination in this matter, which appears to have been based on an initial lack of information that applicant cured at hearing, should be modified to reflect that the subject property was in exempt use as of February 4, 1998.

WHEREFORE, for all the above-stated reasons, it is hereby recommended that the entirety of real estate identified by Cook County Parcel Index Number 05-35-322-003 be exempt from real estate taxes for 91% of the 1998 assessment year under Sections 9-185, 15-65 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

July 13, 2001  
Date

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Alan I. Marcus  
Administrative Law Judge